

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

TWENTY-FOURTH DAY — WEDNESDAY, FEBRUARY 26, 2003

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 32).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Laney; Laubenberg; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Rangel; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Zedler.

Absent, Excused — Gattis; Wong.

Absent — Elkins; Howard; Kuempel; Madden; Marchant; McCall; Oliveira.

The invocation was offered by Representative Crabb.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Wong on motion of Bohac.

The following member was granted leave of absence for today because of important business in the district:

Gattis on motion of Van Arsdale.

(Elkins, Kuempel, Madden, and McCall now present)

HCR 63 - ADOPTED
(by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HCR 63**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 63, Honoring the Texas Historical Commission on the occasion of its 50th anniversary.

HCR 63 was read and was adopted without objection.

On motion of Representative Goolsby, the names of all the members of the house were added to **HCR 63** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hilderbran who introduced members of the Texas Historical Commission. Mr. John Nau III, chair of the Texas Historical Commission, briefly addressed the house.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

(Woolley in the chair)

HCR 66 - ADOPTED
(by T. Smith)

Representative T. Smith moved to suspend all necessary rules to take up and consider at this time **HCR 66**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 66

WHEREAS, Section 21.004(a), Government Code, provides: "At a convenient time at the commencement of each regular session of the legislature, the chief justice of the supreme court shall deliver a written or oral state of the judiciary message evaluating the accessibility of the courts to the citizens of the state and the future directions and needs of the courts of the state."; now, therefore, be it

RESOLVED by the 78th Texas Legislature, Regular Session, That the Senate and House of Representatives of the State of Texas meet in Joint Session in the Hall of the House of Representatives for that purpose on Tuesday, March 4, 2003, at 11 a.m.; and, be it further

RESOLVED, That the Honorable Tom Phillips, Chief Justice of the Supreme Court of Texas, be, and is hereby, invited to address the Regular Session of the 78th Legislature in Joint Session at that time.

HCR 66 was read and was adopted without objection.

HCR 65 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 65**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 65, Welcoming members of the Mt. Pleasant Leadership Group to the State Capitol.

HCR 65 was adopted without objection.

HR 313 - ADOPTED
(by Geren)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 313**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 313, Recognizing February 26, 2003, as Tarrant County Day at the State Capitol.

HR 313 was read and was adopted without objection.

HR 321 - ADOPTED
(by McCall)

Representative McCall moved to suspend all necessary rules to take up and consider at this time **HR 321**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 321, Congratulating the Honorable Mike Krusee on his birthday.

(Howard now present)

HR 321 was read and was adopted without objection.

On motion of Representative Hilderbran, the names of all the members of the house were added to **HR 321** as signers thereof.

(Speaker in the chair)

HR 298 - ADOPTED
(by E. Jones, et al.)

Representative E. Jones moved to suspend all necessary rules to take up and consider at this time **HR 298**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 298, Honoring ACCION Texas for its continued support of small businesses.

HR 298 was read and was adopted without objection.

On motion of Representative Villarreal, the names of all the members of the house were added to **HR 298** as signers thereof.

HR 284 - ADOPTED
(by Garza, et al.)

Representative Garza moved to suspend all necessary rules to take up and consider at this time **HR 284**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 284, In memory of Cristino M. "Tino" Madrigal.

HR 284 was unanimously adopted by a rising vote.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 284** as signers thereof.

HR 314 - ADOPTED
(by Menendez)

Representative Menendez moved to suspend all necessary rules to take up and consider at this time **HR 314**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 314, In memory of Efrain Morales Barrera of San Antonio.

(Marchant now present)

HR 314 was read and was unanimously adopted by a rising vote.

On motion of Representative McCall, the names of all the members of the house were added to **HR 314** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Wilson who introduced Coach Darrell Royal.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES
CORRECTIONS IN REFERRAL**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

HR 320 - ADOPTED
(by Harper-Brown)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 320**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 320, Congratulating Emmitt Smith of the Dallas Cowboys on becoming the National Football League's career rushing leader.

HR 320 was read and was adopted without objection.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 320** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Harper-Brown who introduced Emmitt Smith, his wife Patricia, and Jerry Jones. Mr. Smith briefly addressed the house.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

County Affairs, upon adjournment today, E2.016, for a public hearing, to complete today's agenda.

Ways and Means, 10:30 a.m. or upon adjournment today, E2.010, for a formal meeting.

Government Reform, 1:00 p.m.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

ADJOURNMENT

Representative Menendez moved that the house adjourn until 10 a.m. tomorrow in memory of Efrain Morales Barrera of San Antonio.

The motion prevailed without objection.

The house accordingly, at 11:51 a.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 1009 (By Hardcastle, Christian, J. Keffer, Flores, et al.), Relating to the regulation and acquisition of manufactured housing.

To Financial Institutions.

HB 1101 (By Capelo), Relating to the punishment for the offense of kidnapping.

To Criminal Jurisprudence.

HB 1102 (By Capelo), Relating to the punishment for the offense of stalking.

To Criminal Jurisprudence.

HB 1103 (By Capelo), Relating to the application of the open meetings law and the public information law to meetings and information of certain governmental bodies relating to the security of a port in this state.

To State Affairs.

HB 1104 (By Capelo), Relating to peace officers commissioned and employed to perform duties at correctional facilities.

To Law Enforcement.

HB 1105 (By Goolsby), Relating to requirements for a private club registration permit under the Alcoholic Beverage Code.

To Licensing and Administrative Procedures.

HB 1106 (By Turner), Relating to presumptions for state land records.

To Land and Resource Management.

HB 1107 (By Eissler), Relating to the minimum salary schedule for certain professional public school employees.

To Public Education.

HB 1108 (By Lewis), Relating to the term of office of certain members of an emergency services district.

To County Affairs.

HB 1109 (By King), Relating to collateral eligible to be pledged with the comptroller to secure state deposits.

To State Affairs.

HB 1110 (By Luna), Relating to the funding of the coastal protection fund and the use of money in the fund.

To Energy Resources.

HB 1111 (By Corte), Relating to investigation and testing, technical assistance, and certain other matters related to indoor air quality in state buildings.

To Environmental Regulation.

HB 1112 (By Crownover), Relating to returning a public school teacher to probationary contract status.

To Public Education.

HB 1113 (By Crownover), Relating to returning a public school teacher to probationary contract status.

To Public Education.

HB 1114 (By J. Moreno), Relating to the criminal offense of selling an alcoholic beverage to certain persons.

To Licensing and Administrative Procedures.

HB 1115 (By Hartnett), Relating to the euthanasia of an animal by an animal shelter; providing criminal penalties.

To Public Health.

HB 1116 (By J. Keffer), Relating to the acquisition of interest in private roads by certain counties.

To Transportation.

HB 1117 (By J. Keffer), Relating to the clarification by a county of the existence of a public interest in certain roads.

To Transportation.

HB 1118 (By Wohlgemuth), Relating to the enrollment of certain children and recipients of medical assistance in group health benefit plans.

To State Health Care Expenditures, Select.

HB 1119 (By Goodman), Relating to the disposition of cruelly treated animals.

To Agriculture and Livestock.

HB 1120 (By Phillips), Relating to the removal of the competitive bidding requirement in the law governing the Greater Texoma Utility Authority.

To Natural Resources.

HB 1121 (By Crabb), Relating to the form of examination of a child in a criminal or civil proceeding.

To Criminal Jurisprudence.

HB 1122 (By Crabb), Relating to the admissibility in a civil action of certain communications of sympathy.

To Civil Practices.

HB 1123 (By Ritter), Relating to tax refunds.

To Ways and Means.

HB 1124 (By B. Brown), Relating to the creation of a judicial district composed of Kaufman County.

To Judicial Affairs.

HB 1125 (By Flores), Relating to the period for the redemption of a mineral interest sold for unpaid ad valorem taxes at a tax sale.

To Local Government Ways and Means.

HB 1126 (By Miller, Taylor, et al.), Relating to the repeal of the franchise tax.

To Ways and Means.

HB 1127 (By Miller), Relating to the validation of the creation and certain actions and proceedings of the Middle Trinity Groundwater Conservation District and to related conforming changes to the district's enabling act.

To Natural Resources.

HB 1128 (By Farrar), Relating to the premium tax on certain life, health, and accident insurance policies.

To Insurance.

HB 1129 (By Farrar), Relating to the types of restrictions that may be enforced by certain municipalities.

To Land and Resource Management.

HB 1130 (By Hardcastle), Relating to immigration visa waivers for physicians.

To Border and International Affairs.

HB 1131 (By Flores, Marchant, Driver, Ritter, Hardcastle, et al.), Relating to insurer interests in certain motor vehicle repair facilities.

To Licensing and Administrative Procedures.

HB 1132 (By Grusendorf), Relating to nonrenewal of certain public school teacher contracts.

To Public Education.

HB 1133 (By Grusendorf), Relating to free textbooks for private school students.

To Public Education.

HB 1134 (By Wise), Relating to parity in the regulation of tobacco products among on-premise alcoholic beverage license and permit holders.

To Licensing and Administrative Procedures.

HB 1135 (By Gallego), Relating to the investment and management of the permanent school fund.

To Public Education.

HB 1136 (By Villarreal), Relating to the prohibition of certain discrimination based on sexual orientation; providing penalties.

To State Affairs.

HB 1137 (By Villarreal), Relating to eligibility for public school prekindergarten classes.

To Public Education.

HB 1138 (By Van Arsdale), Relating to nonprofit water supply and sewer service corporations in certain counties.

To Natural Resources.

HB 1139 (By Zedler), Relating to the offense of cruelty to animals.

To State Cultural and Recreational Resources.

HB 1140 (By Ritter), Relating to the acceptance of a referral fee or gift by certain judges; providing a criminal penalty.

To Judicial Affairs.

HB 1141 (By Riddle), Relating to the persons authorized to draw a blood specimen from a vehicle operator to test for alcohol concentration or other intoxicating substances.

To Criminal Jurisprudence.

HB 1142 (By Lewis), Relating to certain diagnostic tests and other care required to be provided by a health benefit plan.

To Insurance.

HB 1143 (By Lewis), Relating to the application of the sales tax to services for repairing and remodeling certain commercial properties.

To Ways and Means.

HB 1144 (By Lewis), Relating to property in the custody of a pawnbroker; providing criminal penalties.

To Financial Institutions.

HB 1145 (By Dutton), Relating to discipline management in public schools.

To Public Education.

HB 1146 (By Dutton), Relating to a limitation on audits of an open-enrollment charter school.

To Public Education.

HB 1147 (By Dutton), Relating to the hours for selling alcoholic beverages in certain establishments.

To Licensing and Administrative Procedures.

HB 1148 (By Miller), Relating to authorizing a temporary wind up permit for a concentrated animal feeding operation the permit for which has been revoked.

To Natural Resources.

HB 1149 (By Swinford), Relating to the medical transportation program.

To Government Reform.

HB 1150 (By Puente), Relating to the financing of certain local water, conservation, and open-space projects in accordance with the law governing sports and community venue projects.

To Natural Resources.

HB 1151 (By Puente), Relating to the protection by a municipality of a lake that is a source of water supply.

To Natural Resources.

HB 1152 (By Puente), Relating to the authority of certain nonprofit water supply corporations to establish and enforce customer water conservation measures.

To Natural Resources.

HB 1153 (By Puente), Relating to the retirement system for fire fighters and police officers in certain municipalities.

To Pensions and Investments.

HB 1154 (By Puente), Relating to the authority of counties and municipalities to contract for services to collect forfeited bail bonds.

To Criminal Jurisprudence.

HB 1155 (By Giddings), Relating to travel services affecting public junior colleges and school districts.

To Government Reform.

HB 1156 (By Giddings), Relating to adoption of the Business Organizations Code.

To Business and Industry.

HB 1157 (By Eissler), Relating to the location of a crematory.

To Public Health.

HB 1158 (By Driver), Relating to the composition of the Commission on Law Enforcement Officer Standards and Education.

To Law Enforcement.

HB 1159 (By Driver), Relating to county civil service coverage for deputy constables.

To Law Enforcement.

HB 1160 (By Isett), Relating to the repeal of the franchise tax.

To Ways and Means.

HB 1161 (By Gallego), Relating to the composition of the State Board of Education.

To Public Education.

HB 1162 (By Noriega), Relating to the regulation of tattoo studios; providing a criminal penalty.

To Public Health.

HB 1163 (By Thompson), Relating to contracts between certain health care providers and health benefit plans.

To Insurance.

HB 1164 (By Nixon), Relating to participation by private school students in University Interscholastic League sponsored activities.

To Public Education.

HB 1165 (By Solomons), Relating to business corporations.

To Business and Industry.

HB 1166 (By Solomons), Relating to the on-line information needs and requirements of licensing agencies and their license holders.

To State Affairs.

HB 1167 (By Madden), Relating to the resignation of a public school teacher employed under a term contract.

To Public Education.

HB 1168 (By Madden), Relating to the appraisal of public school teachers who direct extracurricular activities.

To Public Education.

HB 1169 (By Madden), Relating to evaluations of public school counselors.

To Public Education.

HB 1170 (By Madden), Relating to temporary disability leave for public school educators.

To Public Education.

HB 1171 (By Madden), Relating to the notice required to be given to a governmental entity to recover in a suit on a payment bond.

To State Affairs.

HB 1172 (By Madden), Relating to public school curriculum and textbooks.

To Public Education.

HB 1173 (By Madden), Relating to the use of a building on a federal military base or facility as a polling place in an election.

To Elections.

HB 1174 (By B. Brown), Relating to the election officers that serve a branch polling place during the early voting period.

To Elections.

HB 1175 (By King, et al.), Relating to the regulation of cloning of human beings; providing penalties.

To Regulated Industries.

HR 231 (By Naishtat), Honoring Community Action Agencies in Texas.

To Rules and Resolutions.

HR 232 (By B. Brown), Recognizing March 17, 2003, as Kaufman County Day at the State Capitol.

To Rules and Resolutions.

HR 234 (By Wise), Welcoming La Abuela Mexican Food to the community of Weslaco.

To Rules and Resolutions.

HR 235 (By Delisi), Honoring Dr. Jack Sayre Weinblatt of Temple for his commitment to his community.

To Rules and Resolutions.

HR 238 (By Rose), Honoring John S. Etchieson of Austin on the occasion of his retirement.

To Rules and Resolutions.

HR 242 (By Hunter), Congratulating Justin Snow of the Indianapolis Colts on his athletic achievements.

To Rules and Resolutions.

HR 243 (By Crownover), Honoring Denton Community Hospital on its receipt of the Texas Department of Health's Distinguished Certification Award.

To Rules and Resolutions.

HR 245 (By Farrar), Honoring Cleopatra Nia Williams of Houston on her artistic achievement.

To Rules and Resolutions.

HR 246 (By Farrar), Honoring Aaron Michael Grant of Houston for earning the rank of Eagle Scout.

To Rules and Resolutions.

HR 251 (By Kolkhorst), Recognizing February 25, 2003, as Walker County Day at the State Capitol.

To Rules and Resolutions.

HR 255 (By Delisi), Congratulating the Temple College women's tennis team on winning the 2002 National Junior College Athletic Association Division II championship.

To Rules and Resolutions.

HR 261 (By Kuempel), In memory of Beatrice Ceballos Longoria of Seguin.

To Rules and Resolutions.

HR 262 (By Hunter), Recognizing March 25, 2003, as Texas Medal of Arts Awards Day at the Capitol.

To Rules and Resolutions.

HR 264 (By Delisi), Honoring Salado High School for winning the Conference 2A UIL Academic State Championship.

To Rules and Resolutions.

HR 265 (By Guillen), Recognizing February 27, 2003, as Zapata County Day at the State Capitol.

To Rules and Resolutions.

HR 267 (By Wise), Commending Officer Robert E. Lopez of the Weslaco Police Department for his courage and dedication to duty.

To Rules and Resolutions.

HR 268 (By Wise), Congratulating San Juan's Proyecto Azteca on being selected as a 2003 Families Count honoree.

To Rules and Resolutions.

HR 269 (By Wise), Honoring Weslaco on being named an All-America City for 2002.

To Rules and Resolutions.

HR 270 (By Wise), Commemorating the dedication of Rodolfo "Rudy" Silva, Jr., Elementary School in Weslaco.

To Rules and Resolutions.

HR 273 (By Campbell), Honoring the San Angelo Colts baseball team for winning the 2002 Central Baseball League Championship.

To Rules and Resolutions.

HR 274 (By Farabee), Congratulating Elizabeth Perkins Prothro of Wichita Falls on her receipt of the Council for Independent Colleges Award for Philanthropy.

To Rules and Resolutions.

HR 277 (By Y. Davis), Honoring Joe Don Denton of Dallas for his service to the community.

To Rules and Resolutions.

HR 278 (By Eissler), Welcoming the St. Anthony of Padua Senior Pals to the State Capitol.

To Rules and Resolutions.

HR 279 (By Mabry), In memory of Michael Dohn Reesing of Waco.

To Rules and Resolutions.

HR 280 (By McReynolds), Recognizing the Texas Forestry Association for its seedling giveaway on March 18, 2003, and for its outstanding work in behalf of the state's resources.

To Rules and Resolutions.

HR 281 (By McReynolds), Honoring the Atkinson Candy Company.

To Rules and Resolutions.

HR 282 (By Goodman), Honoring Jerry M. Wood of Tarrant County on his retirement.

To Rules and Resolutions.

HR 283 (By Guillen), Recognizing March 6, 2003, as Duval County Day at the Capitol.

To Rules and Resolutions.

HR 290 (By Hill), Congratulating David and Leticia Morgan of Richardson on the birth of their baby boy, Grant David Morgan.

To Rules and Resolutions.

SCR 12 to Higher Education.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

HB 634 (By Campbell), Relating to the creation of a savings incentive program for state agencies.

To Government Reform.

HB 651 (By Pitts and Campbell), Relating to the creation of a savings incentive program for state agencies.

To Government Reform.

HB 906 (By Gallego), Relating to the human resources staff and functions of state agencies.

To Government Reform.

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Wednesday, February 26, 2003

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 18 Ellis SPONSOR: Williams
Recognizing February 24, 2003, as Liberty County Day 2003 at the State Capitol.

HCR 25 Berman SPONSOR: Ratliff
Recognizing February 24-26, 2003, as Tyler Days at the State Capitol.

HCR 62 Geren SPONSOR: Nelson
Honoring the Westside All-Stars of Fort Worth for being the 2002 Southwest Little League Champions and semifinalists in the 56th Annual Little League World Series.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Wednesday, February 26, 2003 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 63 Hilderbran SPONSOR: Fraser
Honoring the Texas Historical Commission on the occasion of its 50th anniversary.

Respectfully,
Patsy Spaw
Secretary of the Senate

